

## **REMARKS**

**[0003]** Applicant respectfully requests reconsideration and allowance of all of the claims of the application. Claims 1-3, 5, 8-13, 15, 18-19, 25-37, and 39-43 are presently pending. Claims 1-3, 5, 11-13, 15, 25-28, 31, 34-37, 39, and 41 are amended herein. Claims 20-24 are cancelled herein. No new claims are added herein.

### **Statement of Substance of Interview**

**[0004]** The Examiner graciously talked with me—the undersigned representative for the Applicant—on June 25, 2008. Applicant greatly appreciates the Examiner's willingness to talk. Such willingness is invaluable to both of us in our common goal of an expedited prosecution of this patent application.

**[0005]** During the interview, I discussed how the claims differed from the cited reference, namely Menard and Alexander. Without conceding the propriety of the rejections and in the interest of expediting prosecution, I also proposed several possible clarifying amendments.

**[0006]** I understood the Examiner to tentatively concur with the proposed amendments to independent claim claims. However, the Examiner indicated that he would need to review the cited art more carefully and do another search, and requested that the proposed amendments be presented in writing.

**[0007]** Applicant herein amends the claims in the manner discussed during the interview. Accordingly, Applicant submits that the pending claims are allowable over the cited art of record for at least the reasons discussed during the interview.

### **Formal Request for an Interview**

**[0008]** If the Examiner's reply to this communication is anything other than allowance of all pending claims, then I formally request an interview with the Examiner. I encourage the Examiner to call me—the undersigned representative for the Applicant—so that we can talk about this matter so as to resolve any outstanding issues quickly and efficiently over the phone.

**[0009]** Please contact me to schedule a date and time for a telephone interview that is most convenient for both of us. While email works great for me, I welcome your call as well. My contact information may be found on the last page of this response.

### **Claim Amendments**

**[0010]** Without conceding the propriety of the rejections herein and in the interest of expediting prosecution, Applicant amends claims 1-3, 5, 11-13, 15, 25-28, 31, 34-37, 39, and 41 herein. Applicant amends claims to clarify claimed features. Such amendments are made to expedite prosecution and more quickly identify allowable subject matter. Such amendments are merely intended to clarify the claimed features, and should not be construed as further limiting the claimed invention in response to the cited references.

## **Substantive Matters**

### **Claim Rejections under § 112 2<sup>nd</sup> ¶**

[0011] Claims 1, 11, 25, 34 and 41 have been rejected under 35 U.S.C. § 112, 2<sup>nd</sup> paragraph, for reciting the element “the user” without proper antecedent basis. Applicant has amended the claims to replace the term “the user” with the term “the viewer”. In light of the amendments presented herein, Applicant submits that these rejections are moot. Accordingly, Applicant asks the Examiner to withdraw these rejections.

### **Claim Rejections under §102 and §103**

[0012] Claims 1-3, 5, 9-13, 15, 19-27, 29-37 and 39-43 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,810,526 to Menard. Claims 8, 18, and 28 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Menard in view of U.S. Patent No. 6,177,931 to Alexander. In light of the amendments presented herein and the agreements reached during the above-discussed Examiner interview, Applicant submits that these rejections are moot. Accordingly, Applicant asks the Examiner to withdraw these rejections.

[0013] Applicant respectfully traverses these rejections, but in an attempt to advance prosecution, Applicant has amended the claims to better clarify that the viewer-defined parameters comprises two parts. The two parts comprising a user-defined event and a user-defined preference.

**[0014]** The Examiner indicated in the office action (May 15, 2008) that a user defining a preferred video portion to view via a text string (the user-defined event) **in addition to** assigning a priority value to the video portion (user-defined preference) was clearly not taught by Menard. Applicant proposes amending the independent claims to clarify that the viewer-defined parameters include a viewer-defined event and a viewer-defined preference. These two elements are clearly not taught by Menard.

## **Anticipation Rejections**

**[0015]** Applicant submits that the anticipation rejections are not valid because, for each rejected claim, no single reference discloses each and every element of that rejected claim as presently amended.<sup>1</sup> Furthermore, the elements disclosed in the single reference are not arranged in the manner recited by each rejected claim as presently amended.<sup>2</sup>

### **Based upon Menard**

**[0016]** The Examiner rejects claims 1-3, 5, 9-13, 15, 19-27, 29-37 and 39-43 under 35 U.S.C. § 102(e) as being anticipated by Menard. Applicant respectfully traverses the rejection of these claims. Based on the reasons given below, Applicant asks the Examiner to withdraw the rejection of these claims.

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<sup>1</sup> "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987); also see MPEP §2131.

<sup>2</sup> See *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

## **Independent Claim 1**

**[0017]** Applicant submits that Menard does not anticipate this claim as presently amended because it does not disclose the following elements as recited in this claim (with emphasis added):

automatically switching back and forth between displays of the two or more electronic presentations based upon **viewer-defined parameters**, wherein **the viewer-defined parameters comprise:**

**a viewer-defined event**, wherein the viewer-defined event occurs within specified electronic presentations, wherein said viewer-defined event describes an activity or action that takes place within the specified electronic presentation; **and**

**a viewer-defined preference**, wherein the viewer-defined preference is a specified value assigned to the viewer-defined events that occur within the two or more electronic presentations, wherein the specified value assigned to the viewer-defined events are assigned a value by the viewer.

**[0018]** The Examiner indicates (Action, p. 2) the following with regard to this claim:

The examiner has recognized that the Applicant is attempting to claim the features described on Page 18 of the specification, which describes that in addition to a user providing a text string defining a preferred video portion to view, a priority value (1-3) can also be provided by the user. The examiner notes that this feature clearly reads over the Menard references of record, however, the claim as written does not clearly convey this feature.

**[0019]** Independent claim 1 has been amended to clarify that switching back and forth between displays of the two or more electronic presentations is based upon viewer-defined parameters, wherein the viewer-defined parameters comprise: a viewer-defined event and a viewer-defined preference. Claim 1 has been further amended to clarify that the viewer-defined event "occurs within specified electronic presentations, wherein said viewer-defined event describes an activity or action that takes place within the specified electronic presentation". Additionally, claim 1 has been amended to further define a viewer-defined preference "is a specified value assigned to the viewer-defined events that occur within the two or more electronic presentations, wherein the specified value assigned to the viewer-defined events are assigned a value by the viewer".

**[0020]** As the Examiner has previously admitted, Menard does not teach utilizing a viewer-defined parameter comprising a viewer-defined event and a viewer-defined preference to automatically switching back and forth between displays of the two or more electronic presentations. Consequently, Menard does not disclose all of the elements and features of this claim. Accordingly, Applicant asks the Examiner to withdraw the rejection of this claim.

### **Dependent Claims 2-3, 5, and 8-10**

[0021] These claims ultimately depend upon independent claim 1. As discussed above, claim 1 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.

### **Independent Claim 11**

[0022] Applicant submits that Menard does not anticipate this claim as presently amended because it does not disclose the following elements as recited in this claim (with emphasis added):

automatically notifying a viewer when one or more of the electronic presentations satisfies a viewer-defined parameters, wherein viewer-defined parameters comprise:

a viewer-defined event, wherein the viewer defined event occurs within specified electronic presentations, wherein said viewer-described event describes an activity or action that takes place within the specified electronic presentation itself and wherein an activity or action can pertain to a character or person in at least one of said two or more electronic presentations; and

a viewer-defined preference, wherein the viewer-defined preference is a specified value assigned to the viewer-defined event that occurs within the two or more electronic presentations, wherein the specified value assigned to the viewer-defined event that occur within the two or more electronic presentations is assigned a value by the viewer.

**[0023]** Applicant respectfully submits that based on reasoning similar to that discussed above in response to the rejection of claim 1, Menard does not disclose all of the claimed elements and features of claim 11. For the sake of brevity, Applicant will not repeat the arguments here. Independent claim 11 is allowable for at least the reasoning discussed previously; as such Applicant respectfully requests that the Examiner withdraw the rejection of claim 11.

**Dependent Claims 12-13, 15, and 18-19**

**[0024]** These claims ultimately depend upon independent claim 11. As discussed above, claim 11 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.



## **Independent Claim 25**

**[0025]** Applicant submits that Menard does not anticipate this claim as presently amended because it does not disclose the following elements as recited in this claim (with emphasis added):

receiving one or more viewer requests from one or more viewers, the viewer requests containing viewer-defined parameters that are to be used to evaluate a plurality of different live electronic presentations, wherein the viewer defined parameters are assigned a value by the user, the viewer-defined parameters comprising;

a viewer-defined event, wherein the viewer-defined event occurs within specified presentations, wherein said viewer-defined event describes an activity or action that takes place within the specified electronic presentation; and

a viewer-defined preference, wherein the viewer-defined preference is a specified value assigned to the viewer-defined event that occurs within the specified electronic presentation, wherein the specified value assigned to the viewer-defined event is assigned a value by the viewer;

**[0026]** Applicant respectfully submits that based on reasoning similar to that discussed above in response to the rejection of claim 1, Menard does not

disclose all of the claimed elements and features of claim 25. For the sake of brevity, Applicant will not repeat the arguments here. Independent claim 25 is allowable for at least the reasoning discussed previously; as such Applicant respectfully requests that the Examiner withdraw the rejection of claim 25.

### **Dependent Claims 26-33**

[0027] These claims ultimately depend upon independent claim 25. As discussed above, claim 25 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.

### **Independent Claim 34**

[0028] Applicant submits that Menard does not anticipate this claim as presently amended because it does not disclose the following elements as recited in this claim (with emphasis added):

evaluating one or more electronic presentations with the one or more computing devices in light of the one or more viewer-defined parameters, wherein said evaluating comprises at least monitoring data that does not comprise content that can be presented to a viewer and wherein an activity or action can pertain to a character or person in at least one of said electronic presentations, the viewer-defined parameters comprise:

a viewer-defined event, wherein the viewer defined event occurs within specified electronic presentations, wherein said viewer-defined event describes an activity or action that takes place within the specified electronic presentation; and

a viewer-defined preference, wherein the viewer-defined preference is a specified value assigned to the viewer-defined event that occurs within the specified electronic presentations, wherein the specified value assigned to the viewer defined event are assigned by the viewer

**[0029]** Applicant respectfully submits that based on reasoning similar to that discussed above in response to the rejection of claim 1, Menard does not disclose all of the claimed elements and features of claim 34. For the sake of brevity, Applicant will not repeat the arguments here. Independent claim 34 is allowable for at least the reasoning discussed previously; as such Applicant respectfully requests that the Examiner withdraw the rejection of claim 34.

### **Dependent Claims 35-37, and 29-40**

**[0030]** These claims ultimately depend upon independent claim 34. As discussed above, claim 34 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.

## **Independent Claim 41**

**[0031]** Applicant submits that Menard does not anticipate this claim as presently amended because it does not disclose the following elements as recited in this claim (with emphasis added):

automatically send a notification to one or more of the client viewing devices when one or more of the electronic presentations satisfies one or more viewer-defined parameter that is defined by a viewer of the one or more client viewing devices, wherein the viewer-defined parameters are defined in terms of:

a viewer-defined event, wherein the viewer defined event occurs in specified electronic presentations, wherein the viewer-defined event describes an activity or action that takes place within the specified electronic presentation the activity or action can pertain to a character or person in at least one of said electronic presentations; and

a viewer defined preference, wherein the viewer-defined preference is a specified value assigned to the viewer-defined event that occurs within the two or more electronic presentations, wherein the specified value assigned to the viewer-defined events are assigned a value by the viewer.

[0032] Applicant respectfully submits that based on reasoning similar to that discussed above in response to the rejection of claim 1, Menard does not disclose all of the claimed elements and features of claim 41. For the sake of brevity, Applicant will not repeat the arguments here. Independent claim 41 is allowable for at least the reasoning discussed previously; as such Applicant respectfully requests that the Examiner withdraw the rejection of claim 41.

### **Dependent Claims 42 and 43**

[0033] These claims ultimately depend upon independent claim 34. As discussed above, claim 34 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.

## **Obviousness Rejections**

### **Lack of *Prima Facie* Case of Obviousness (MPEP § 2142)**

[0034] Applicant disagrees with the Examiner's obviousness rejections. Arguments presented herein point to various aspects of the record to demonstrate that all of the criteria set forth for making a prima facie case have not been met.

[0035] Claims 8, 18, and 28 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Menard in light of Alexander. These claims ultimately depend upon independent claims shown to be allowable above. It is axiomatic that any dependent claim which depends from an allowable base claim is also

allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.

**[0036]** In addition to its own merits, each dependent claim is allowable for the same reasons that its base claim is allowable. Applicant requests that the Examiner withdraw the rejection of each dependent claim where its base claim is allowable.

### **Conclusion**

**[0037]** All pending claims are in condition for allowance. Applicant respectfully requests reconsideration and prompt issuance of the application. If any issues remain that prevent issuance of this application, the **Examiner is urged to contact me before issuing a subsequent Action.** Please call or email me at your convenience.

Respectfully Submitted,

Lee & Hayes, PLLC  
Representatives for Applicant

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